

21 April 1988  
OCA 88-1263

MEMORANDUM FOR: CTC/[ ]  
AGC/DO

STAT

FROM: [ ] Legislation Division  
Office of Congressional Affairs

STAT

SUBJECT: HFAC Markup of Berman Bill

1. On April 19, 1988, the House Foreign Affairs Committee met in full Committee session to "mark up" H.R. 3651, the "Antiterrorism and Arms Export Amendments Act of 1988" introduced by Representative Berman and cosponsored by Representatives Hyde, Fascell and Hamilton among others (approximately 55 cosponsors at this point). Present for the markup were Chairman Fascell, Representatives Berman and Hyde as well as Representatives Solarz, Crockett, Dymally, and Weiss.

2. Chairman Fascell began by noting that there was before the Committee an amendment in the nature of a substitute cosponsored by Representatives Berman and Hyde which had the concurrence of the Administration. This amendment was the revision prepared in conjunction with the Administration, the HFAC and the House Permanent Select Committee on Intelligence (HPSCI) which the Agency had previously reviewed and approved.

3. Representative Berman summarized the background and history of the bill and introduced the amendment.

4. Representative Hyde then made a few remarks of a similar nature. He indicated that the issue of a "Section 614 (a)" waiver remained unresolved but that he expected it would be resolved in the very near future with the resolution being embodied in an amendment which would become a committee floor amendment. In later discussions with staff, they described this issue as the waiver provision which would authorize third party, humanitarian assistance to the people of terrorist country in special circumstances (e.g., famine relief in Ethiopia).

5. Representative Crockett then spoke, indicating his opposition to the bill because it did not contain a definition of "international terrorism" and thus could not be used to condemn those responsible for the killing of Abu Jihad.

6. Chairman Fascell then put the amendment to a voice vote and it was adopted with Representative Crockett clearly being the sole "voice" against it. The bill as so amended was then ordered to be reported out of the committee by voice vote, again with only Crockett voting against.

7. The Committee is expected to publish its report on the bill in the near future. Thereafter, the bill will be taken to the floor. Staff indicate this may be in the next few weeks in order to give the Senate time in the remainder of the session to favorably consider the legislation.

8. A copy of the amendment in the nature of a substitute as adopted is attached. The Agency's concerns with the original bill have been addressed as follows. You will note the somewhat softened definition of "terrorist country" in Section 2(d) (p. 6, lines 17-24). You will note the exemption for intelligence activities contained in Section 2(h) (beginning on p. 9, line 21). You will note Section 7(a)(3) has been amended to exclude from new Congressional reporting requirements Department of Defense transfers of items to third agencies for intelligence purposes (p. 19, lines 20-25). Finally, you will note that the arms transfer reporting section of the original bill (Section 8) has been deleted.



STAT

Attachment

OCA/LEG/ [redacted] (20 April 1988)

STAT

Distribution:

Original - Addressees

- 1 - D/OCA (w/ att.)
- 1 - DDL/OCA (w/o att.)
- 1 - R. Bruemmer/OGC (w/o att.)
- 1 - [redacted] w/o att.)
- 1 - [redacted] (w/o att.)
- 1 - OCA Registry (w/ att.)

STAT

- 1 - OCA/Leg/Subject File: Oversight Legislation (w/ att.)
- 1 - [redacted] Signer (w/o att.)
- 1 - OCA Read (w/o att.)

STAT

AMDT3651

[April 18, 1988]

AMENDMENT-IN-THE-NATURE-OF-A-SUBSTITUTE TO H.R. 3651

Offered by Mr. Berman (for himself and Mr. Hyde)

Strike out all after the enacting clause and insert in lieu thereof the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the ``Antiterrorism and Arms  
3 Export Amendments Act of 1988``.

4 SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES

5 SUPPORTING TERRORISM.

6 (a) PROHIBITION.--Section 40 of the Arms Export Control  
7 Act (22 U.S.C. 2780) is amended to read as follows:

8 ``SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF  
9 INTERNATIONAL TERRORISM.

10 `` (a) PROHIBITED TRANSACTIONS BY THE UNITED STATES  
11 GOVERNMENT.--The following transactions by the United States  
12 Government are prohibited:

13 `` (1) Exporting or otherwise providing (by sale,  
14 lease or loan, grant, or other means), directly or  
15 indirectly, any munitions item to a country described in  
16 subsection (d) under the authority of this Act, the  
17 Foreign Assistance Act of 1961, or any other law (except  
18 as provided in subsection (h)). In implementing this  
19 paragraph, the United States Government--